

REMARKS/ARGUMENTS

Claims 1-3, 5-7, 10, 12, 14, and 16-27 have been examined. Dependent claims 8, 11, and 13 stand withdrawn as being drawn to a non-elected species. Currently, claim 1 is generic. Claims 1, 14, and 17 have been amended. Re-examination and reconsideration of the pending claims 1-3, 5-8, 10-14, and 16-27, as amended, are respectfully requested.

Claims 1-3, 5, 7, 10, 12, 14, 16-21, 23, and 27 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,681,560 issued to Schulte et al. Claims 1-3, 5, 7, 10, 14, 16-23, and 27 have been rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,544,214 issued to Utterberg. Claim 22 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schulte et al. in view of Utterberg. Claim 6 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schulte et al. in view of U.S. Patent No. 6,478,783 issued to Moorehead. Claims 24-26 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Schulte et al. in view of U.S. Patent No. 6,162,238 issued to Kaplan et al. Such rejections are traversed in part and overcome in part as follows.

In order to expedite prosecution of this case and to more clearly claim the present invention, Applicants have now amended independent apparatus claim 1 to recite a cannula . . . having a distal end adapted to connect to a blood vessel. Independent method claim 17 has been amended to recite that the substance is being delivered to "a blood vessel." Support for these limitations can be found throughout the originally filed specification, and in particular with reference to page 13, lines 17-20. As describe below, added limitations are not reasonably disclosed or suggested by the available cited art.

As the Examiner certainly knows and appreciates, the cited reference must teach each and every element of the claim to establish anticipation under 35 U.S.C. § 102. M.P.E.P. § 2131. The Court of Appeals for the Federal Circuit has held that, "the identical invention must be shown in as complete detail as is contained in the claims." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1912, 1920 (Fed. Cir. 1989).

Claims 1 and 17, as amended, clearly distinguish the teachings of Schulte et al. Schulte et al. describes an injection site apparatus (28) capable of receiving a needle (31, wherein the apparatus that is connected via a separate flexible tubing structure (26) to a reservoir (12). The reservoir (12), in turn, is connected to a rigid l-shaped catheter assembly which is intended for placement into a ventricle of a patient's brain through a hole in the skull. [See col. 10, lines 33-39 and col. 14, lines 62-66] In sum, this reference fails to teach or suggest means for attaching the flow passage to a blood vessel, as currently required by claims 1 and 17.

The rejections based on the remaining Utterberg, Moorehead, and Kaplan et al. references rejections are moot as *none* of these art references are citable as prior art against the present application. The Utterberg patent has an effective filing date of May 25, 1999, Moorehead of May 26, 2000, and Kaplan et al. of February 24, 1999. The present application is a continuation-in-part of both from Application No. 09/239,411 filed on January 28, 1999, and Application No. 08/183,151, filed on January 18, 1994. All disclosure in the present application is directly supported in one of these two priority cases, and Applicants believe that the presently pending claims are fully supported in either or both of these cases and thus entitles an effective filing date of January 28, 1999, or earlier. Thus, the Utterberg, Moorehead, and Kaplan et al. references are not available as prior art, under M.P.E.P. § 706.02, to the present application. Hence, all rejections based on Utterberg, Moorehead, and Kaplan et al. references should be removed.

Hence, absent any cited teaching or suggestion in the art of record for means for attaching the flow passage to a blood vessel as now recited in claim 1, claim 1 (and dependent claims 2, 3, 5-8, 10-14, 16 and 24-27) stand in condition for allowance.

CONCLUSION

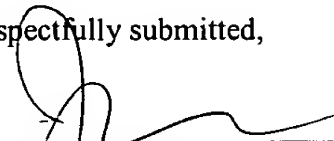
In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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